



# Exemption form

## Residual Early Childhood Services EXEMPTION FORM

*Education and Early Childhood Services (Registration and Standards) Act 2011*  
Part 3 and Schedule 2

**Note:** Before submitting this application, you must ensure you are familiar with the requirements and obligations set out under the *Education and Care Services National Law (South Australia)* as it applies to residual early childhood services and the Education and Early Childhood Services (Registration and Standards) Regulations 2011. If you require further information or are unsure about the information required in this form, it is important that you visit the website <http://www.esb.sa.gov.au> or contact the Education Standards Board for clarification. You must ensure that the information you provide in this form is complete and correct. The provision of false or misleading information to the regulatory authority is an offence under the *Education and Care Services National Law (South Australia)*

Application of the *Education and Care Services National Law (South Australia)* to residual early childhood services—

**s17—Exemption from certain provisions of *Education and Care Services National Law (South Australia)***

(1) Subject to this section, the Minister may, by notice in writing—

- (a) exempt a person, or class of persons, subject to such conditions as the Minister thinks fit and specifies in the notice, from specified provisions of the *Education and Care Services National Law (South Australia)* as they apply to, or in relation to, residual early childhood services; or
  - (b) vary or revoke an exemption, or a condition of an exemption, under this section or impose a further condition.
- (2) The Minister must consult with the Board before making a notice under subsection (1).  
(3) A person who contravenes a condition of an exemption is guilty of an offence. Maximum penalty: \$10 000.

**s20—Power of delegation**

(1) The Minister may delegate a function or power under this Act (other than a prescribed function or power) to a specified body or person (including a person for the time being holding or acting in a specified office or position)

## Applicant Details

Approved provider name

Approved provider number

Service trading name

Service approval number

### Service Address

Address line 1:	
Address line 2:	
Suburb/Town:	
State/Territory:	Postcode:

### Postal Address:

As above: <input type="checkbox"/>	
Address line 1:	
Address line 2:	
Suburb/Town:	
State/Territory:	Postcode:

### Name and Contact details for this application:

*Note: This will be the person whom the Regulatory Authority will contact for questions relating to this application*

Title:	First Name:
Last Name:	Position:
Phone number:	Mobile number:
Email:	

## Service Type

In-Home Care

Occasional Care

Mobile Care

Individual Family Day Care (Not Part of a Scheme)

## Exemption Information

**Note:** You do not need to apply for an exemption if you are able to meet the requirements prescribed in Chapter 4 of the Education and Care Services National Regulations. Only apply for an exemption for the regulations that you are not able to meet. Once the approved exemption period expires, the exemption is considered invalid; however you may apply for an extension. All extensions will be considered on a case by case basis.

Physical Environment		
Regulation	Details	Exemption required
107 Indoor space	<p>(1) The approved provider of an education and care service must ensure that, for each child being educated and cared for by the service, the education and care service premises has at least 3.25 square metres of unencumbered indoor space.</p> <p>(2) In calculating the area of unencumbered indoor space—</p> <p>(a) the following areas are to be excluded—</p> <ul style="list-style-type: none"> <li>(i) any passageway or thoroughfare (including door swings);</li> <li>(ii) any toilet and hygiene facilities;</li> <li>(iii) any nappy changing area or area for preparing bottles;</li> <li>(iv) any area permanently set aside for the use or storage of cots;</li> <li>(v) any area permanently set aside for storage;</li> <li>(vi) any area or room for staff or administration;</li> <li>(vii) any other space that is not suitable for children;</li> </ul> <p>(b) the area of a kitchen is to be excluded, unless the kitchen is primarily to be used by children as part of an educational program provided by the service.</p> <p>(3) The area of a verandah may be included in calculating the area of indoor space only with the written approval of the Regulatory Authority.</p> <p>(4) A verandah that is included in calculating the area of outdoor space cannot be included in calculating the area of indoor space.</p>	
110 Ventilation and natural light	<p>The approved provider of an education and care service must ensure that the indoor spaces used by children at the education and care service premises—</p> <ul style="list-style-type: none"> <li>(a) are well ventilated; and</li> <li>(b) have adequate natural light; and</li> <li>(c) are maintained at a temperature that ensures the safety and wellbeing of children.</li> </ul>	
111 Administrative space	<p>The approved provider of a centre-based service must ensure that an adequate area or areas are available at the education and care service premises for the purposes of—</p> <ul style="list-style-type: none"> <li>(a) conducting the administrative functions of the service; and</li> <li>(b) consulting with parents of children; and</li> <li>(c) conducting private conversations.</li> </ul>	

## Physical Environment

Regulation	Details	Exemption required
112 Nappy change facilities	<p>(1) This regulation applies if a centre-based service educates and cares for children who wear nappies.</p> <p>(2) The approved provider of the service must ensure that adequate and appropriate hygienic facilities are provided for nappy changing.</p> <p>(3) Without limiting subregulation (2), the approved provider of the service must ensure that the following are provided—</p> <ul style="list-style-type: none"> <li>(a) if any of the children are under 3 years of age, at least 1 properly constructed nappy changing bench; and</li> <li>(b) hand cleansing facilities for adults in the immediate vicinity of the nappy change area.</li> </ul> <p>(4) The approved provider of the service must ensure that nappy change facilities are designed, located and maintained in a way that prevents unsupervised access by children.</p>	
115 Premises designed to facilitate supervision	<p>The approved provider of a centre-based service must ensure that the education and care service premises (including toilets and nappy change facilities) are designed and maintained in a way that facilitates supervision of children at all times that they are being educated and cared for by the service, having regard to the need to maintain the rights and dignity of the children.</p>	
108 Outdoor Space	<p>(1) The approved provider of an education and care service must ensure that, for each child being educated and cared for by the service, the education and care service premises has at least 7 square metres of unencumbered outdoor space.</p> <p>(2) In calculating the area of unencumbered outdoor space required, the following areas are to be excluded—</p> <ul style="list-style-type: none"> <li>(a) any pathway or thoroughfare, except where used by children as part of the education and care program;</li> <li>(b) any car parking area;</li> <li>(c) any storage shed or other storage area;</li> <li>(d) any other space that is not suitable for children.</li> </ul> <p>(3) A verandah that is included in calculating the area of indoor space cannot be included in calculating the area of outdoor space.</p> <p>(4) An area of unencumbered indoor space may be included in calculating the outdoor space of a service that provides education and care to children over preschool age if—</p> <ul style="list-style-type: none"> <li>(a) the Regulatory Authority has given written approval; and</li> <li>(b) that indoor space has not been included in calculating the indoor space under regulation 107.</li> </ul>	
113 Outdoor space – natural environment	<p>The approved provider of a centre-based service must ensure that the outdoor spaces provided at the education and care service premises allow children to explore and experience the natural environment.</p>	
114 Outdoor space - shade	<p>The approved provider of a centre-based service must ensure that outdoor spaces provided at the education and care service premises include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</p>	

## Physical Environment

Regulation	Details	Exemption required
104 Fencing	<p>(1) The approved provider of an education and care service must ensure that any outdoor space used by children at the education and care service premises is enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.</p> <p>(2) This regulation does not apply to a centre-based service that primarily provides education and care to children over preschool age.</p>	
120 Supervision for educators under 18 years	<p>The approved provider of a centre-based service must ensure that any educator at the service who is under 18 years of age—</p> <ul style="list-style-type: none"> <li>(a) does not work alone at the service; and</li> <li>(b) is adequately supervised at all times by an educator who has attained the age of 18 years.</li> </ul>	
123 Educator-to-child ratios	<p>(1) The minimum number of educators required to educate and care for children at a centre-based service is to be calculated in accordance with the following ratios—</p> <ul style="list-style-type: none"> <li>(a) for children from birth to 24 months of age— 1 educator to 4 children;</li> <li>(b) for children over 24 months and less than 36 months of age—1 educator to 5 children;</li> <li>(c) for children aged 36 months of age or over (not including children over preschool age)— 1 educator to 10 children;</li> </ul> <p>(2) If children being educated and cared for at a centre-based service are of mixed ages the minimum number of educators for the children must meet the requirements of subregulation (1) at all times.</p>	
126 General educator qualifications	<p>(1) The qualification requirements for educators at a centre-based service educating and caring for children preschool age or under are as follows—</p> <ul style="list-style-type: none"> <li>(a) at least 50 per cent of the educators who are required to meet the relevant educator to child ratios for the service must have, or be actively working towards, at least an approved diploma level education and care qualification; and</li> <li>(b) all other educators who are required to meet the relevant educator to child ratios for the service must have, or be actively working towards, at least an approved certificate III level education and care qualification.</li> </ul> <p><i>* Please refer to supporting documentation that relates to 'taken to hold a qualification' and the meaning of 'actively working towards'.</i></p>	

## Physical Environment

Regulation	Details	Exemption required
<p>130 Early childhood teacher (fewer than 25 approved places)</p>	<p>(1) If the approved number of places for children preschool age or under at a centre-based service is fewer than 25, the service must have access to an early childhood teacher working with the service for at least 20 per cent of the time that the service provides education and care.</p> <p>(2) To comply with subregulation (1), the early childhood teacher may be working with the service by means of information communication technology.</p> <p>(3) For the purposes of this regulation the period that an early childhood teacher works with a centre-based service may be calculated on a quarterly basis.</p> <p><i>* For Early Childhood Teacher requirements in Regulation 130-134 please refer to supporting documentation that relates to 'taken to hold an early childhood teacher qualification' and the meaning of 'actively working towards'.</i></p>	
<p>131 Early childhood teacher (25 or more approved places, but fewer than 25 children)</p>	<p>(1) This regulation applies if the approved number of places for children preschool age or under at a centre-based service is 25 or more but the service is educating or caring for fewer than 25 children.</p> <p>(2) The service must comply with regulation 130 during any period that it educates and cares for fewer than 25 children.</p> <p>(3) Any period that an early childhood teacher is in attendance at the service in compliance with regulation 132 may be counted towards the period of access to an early childhood teacher required by subregulation (2).</p>	
<p>132 Early childhood teacher (25 to 59 children)</p>	<p>(1) If a centre-based service provides education and care to 25 or more but less than 60 children preschool age or under on a given day, an early childhood teacher must be in attendance at the service—</p> <p>(a) for at least 6 hours on that day, if the service operates for 50 or more hours a week; or</p> <p>(b) for 60 per cent of the operating hours of the service on that day, if the service operates for less than 50 hours a week.</p> <p>(2) A centre-based service is not required to comply with subregulation (1) if—</p> <p>(a) the approved number of places for children preschool age or under at the service is 25 or more but less than 60; and</p> <p>(b) the service employs or engages a full-time or full-time equivalent early childhood teacher at the service.</p> <p><i>* Please refer to supporting documentation that relates to 'early childhood teacher in attendance'.</i></p>	
<p>133 Early childhood teacher (60 to 80 children)</p>	<p>(1) If a centre-based service provides education and care to 60 or more but less than 80 children preschool age or under on a given day -</p> <p>(a), an early childhood teacher must be in attendance at the service—</p> <p>(i) for at least 6 hours on that day, if the service operates for 50 or more hours a week; or</p> <p>(ii) for 60 per cent of the operating hours of the service on that day, if the service operates for less than 50 hours a week.</p>	

**Physical Environment**

<b>Regulation</b>	<b>Details</b>	<b>Exemption required</b>
134 Early childhood teacher (more than 80 children)	(1) If a centre-based service provides education and care to more than 80 children preschool age or under on a given day— (a) an early childhood teacher must be in attendance at the service— (i) for at least 6 hours on that day, if the service operates for 50 or more hours a week; or (ii) for 60 per cent of the operating hours of the service on that day, if the service operates for less than 50 hours a week; and  (2) A centre-based service is not required to comply with subregulation (1) if— (a) the approved number of places for children preschool age or under at a centre-based service is more than 80; and (b) the service employs or engages— (i) a full-time or full-time equivalent early childhood teacher at the service.	

**Physical Environment**

Regulation	Details	Exemption required
<p align="center">136 First aid qualifications</p>	<p>(1) The approved provider of a centre-based service must ensure that the following persons are in attendance at any place where children are being educated and cared for by the service, and immediately available in an emergency, at all times that children are being educated and cared for by the service—</p> <p>(a) at least one educator who holds a current approved first aid qualification; (b) at least one educator who has undertaken current approved anaphylaxis management training;</p> <p>(c) at least one educator who has undertaken current approved emergency asthma management training.</p> <p>(2) If children are being educated and cared for at service premises on the site of a school, it is sufficient for the purposes of subregulation (1) if the following are in attendance at the school site and immediately available in an emergency—</p> <p>(a) an educator referred to in subregulation (1)(a) or at least one staff member of the school who holds a current approved first aid qualification;</p> <p>(b) an educator referred to in subregulation (1)(b) or at least one staff member of the school who has undertaken current approved anaphylaxis management training;</p> <p>(c) an educator referred to in subregulation (1)(c) or at least one staff member of the school who has undertaken current approved emergency asthma management training.</p> <p>(3) The same person may hold one or more of the qualifications set out in subregulation (1). (5) In this regulation—</p> <p><b>approved anaphylaxis management training</b> means anaphylaxis management training approved by the Board.</p> <p><b>approved emergency asthma management training</b> means emergency asthma management training approved by the Board.</p> <p><b>approved first aid qualification</b> means a qualification that—</p> <p>(a) includes training in the following that relates to and is appropriate to children –</p> <p>(i) emergency life support and cardio-pulmonary resuscitation; (ii) convulsions;</p> <p>(iii) poisoning;</p> <p>(iv) respiratory difficulties;</p> <p>(v) management of severe bleeding; (vi) injury and basic wound care;</p> <p>(vii) administration of an auto-immune adrenalin device.</p> <p><a href="#">*Please refer to supporting documentation that relates to qualifications that are approved by the Board.</a></p>	

Exemption period requested from: \_\_\_/\_\_\_/\_\_\_ (start date) to \_\_\_/\_\_\_/\_\_\_ (end date)

Please note: Exemption period cannot exceed 2 years



Please give the reasons The Education and Care Service cannot comply (or will not comply) with the specified regulations.


Please give details and evidence on any attempts made to comply with regulations.


Please provide detail on strategies you have implemented to work towards meeting regulations.


Please detail steps being taken (or the steps that will be taken) to protect the wellbeing of children being cared for by the Service while the exemption is in force.


Please detail the strategies you have in place for meeting the requirements once the exemption ceases.


### Who May Sign?

- **Individuals:** The individual Applicant.
- **Company:** Two directors of the company, or a director and company secretary, or if sole proprietor the sole director.
- **Incorporated association:** The public officer and one other member of the management committee.
- **Cooperative:** Two directors of the cooperative, or a director and one other officer of the cooperative.
- **Partnership:** A managing partner who is authorised to sign on behalf of the partnership. This signature binds all partners.
- **Corporation/Government School Council:** Signed in accordance with rules of the corporation/council.

### Applicant Declaration

I, \_\_\_\_\_ (insert full name of person signing the declaration)

of, \_\_\_\_\_ (insert address)

am \_\_\_\_\_ (insert position/title of Applicant for example,

Proprietor, Director, Partner, President)

and I am authorised to make this declaration on the Applicant's behalf.

I declare that:

1. The information provided in this form (including any attachments) is true, complete and correct
2. I have read, understood and agree to the conditions and the associated material contained in this form
3. I understand that the regulatory authority has the right (but is not obliged) to act in reliance upon the contents of this form, including its attachments
4. I have read and understood a provider's legal obligations under the Education and Care Services National Law
5. The regulatory authority is authorised to verify any information provided in this form
6. Some of the information provided in this form may be disclosed to the Commonwealth for the purposes of the Family Assistance Law and may be disclosed to other persons/authorities where authorised by the Education and Care Services National Law or other legislation, and
7. I am aware that under the Education and Care Services National Law penalties apply if false or misleading information is provided.

Signature of person making the declaration: \_\_\_\_\_

Signed at: \_\_\_\_\_ (address) on the \_\_\_\_\_ (date)

## Second Applicant Declaration (if required)

I, \_\_\_\_\_ (insert full name of person signing the declaration)  
of, \_\_\_\_\_ (insert address)  
am \_\_\_\_\_ (Insert position/title of Applicant, for example,  
Proprietor, Director, Partner, President)

and I am authorised to make this declaration on the Applicant's behalf.

I declare that:

1. The information provided in this form (including any attachments) is true, complete and correct
2. I have read, understood and agree to the conditions and the associated material contained in this form
3. I understand that the regulatory authority has the right (but is not obliged) to act in reliance upon the contents of this form, including its attachments
4. I have read and understood a provider's legal obligations under the Education and Care Services National Law
5. The regulatory authority is authorised to verify any information provided in this form
6. Some of the information provided in this form may be disclosed to the Commonwealth for the purposes of the Family Assistance Law and may be disclosed to other persons/authorities where authorised by the Education and Care Services National Law or other legislation, and
7. I am aware that under the Education and Care Services National Law penalties apply if false or misleading information is provided.

Signature of person making the declaration: \_\_\_\_\_

Signed at: \_\_\_\_\_ (address) on the \_\_\_\_\_ (date)

Please submit this form along with any required documentation to the regulatory authority.

Education Standards Board  
GPO Box 1811  
ADELAIDE SA 5001

**Enquiries to:**

Email: [educationstandardsboard@sa.gov.au](mailto:educationstandardsboard@sa.gov.au)

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